

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CITY AND COUNTY OF SAN
FRANCISCO, et al.,

Plaintiffs,

v.

PURDUE PHARMA L.P., et al.,
Defendants.

Case No. 18-cv-07591-CRB (JSC)

**ORDER FOLLOWING MARCH 23,
2022 PRETRIAL CONFERENCE**

On March 23, 2022, the Court held a pretrial conference regarding the upcoming trial scheduled to begin April 25, 2022. For the reasons discussed at the conference, the Court orders as follows:

- **Trial Schedule:** Trial will be held Monday through Thursday from 9:30 am to 12:15 pm and from 1:15 pm to 3:30 pm beginning April 25th. The Court will be unavailable from May 2nd to May 6th and from June 22nd to June 23rd but does not currently expect any other interruptions to the trial schedule.
- **Trial Time:** Plaintiff and Defendants are each allotted 45 hours of total trial time. Defendants shall determine how to divide their 45 hours amongst each Defendant.
- **Opening Statements:** Plaintiff and Defendants each have one day to make their opening statements. Defendants shall determine amongst themselves how to divide their time. Time taken for opening statements will not count against trial time. While trial will ordinarily conclude at 3:30 pm daily, the Court will be flexible with respect to the timing of opening statements and may allow opening statements to

1 extend beyond 3:30 pm.

- 2 • **Witness Declarations:** Upon further consideration, the Court has determined that
3 direct testimony for fact and expert witnesses will be presented through declaration
4 (or deposition as discussed below). Plaintiff and Defendants are each allotted
5 150,000 words total for witness declarations. Defendants shall determine how to
6 divide the word limit amongst themselves. Aside from the 150,000 total word limit,
7 there are no word limits for the declaration of any given witness. Any exhibits
8 referenced in a witness' declaration shall be filed with the declaration. Declarations
9 are due by 12 pm two days before the witness is scheduled to testify, but the parties
10 are encouraged to file their declarations as soon as possible. If a witness is
11 scheduled to testify on a Monday or Tuesday, their declaration must be filed by 12
12 pm the preceding Friday. Before cross-examination, each witness may take no
13 more than 30 minutes to offer a summary of their written direct testimony. Time
14 taken for witnesses to offer their summaries will not be counted against either side's
15 trial time.
- 16 • **Deposition Testimony:** The parties may offer the testimony of a witness through
17 recorded deposition as permitted under Federal Rule of Civil Procedure 32. The
18 time taken to present the deposition, including objections, will be charged against
19 the party offering the deposition testimony.
- 20 • **Time for Objections:** Time for making and ruling on objections shall be counted
21 against the examining party. To the extent that a parties' objections are not well
22 founded, the Court may grant the examining party additional trial time.
- 23 • **Findings of Fact and Conclusions of Law (FOFCOL):** FOFCOLs are due April
24 18, 2022. Plaintiff shall submit a FOFCOL and Defendants shall submit one
25 FOFCOL. The initial FOFCOLs shall provide a roadmap of the facts and the
26 conclusions of law that each party intends to establish at trial. It shall be written in
27 plain English. There are no page limits for the FOFCOLs, but they should be
28 practical and accessible documents that provide an overview of the case that each

party intends to present. During trial, the parties shall submit an updated FOFCOL every two weeks, filing it by 5 pm on the Friday of the second week. The Court's expectation is that the updated FOFCOLs will be filled in with citations to the evidence presented during trial that supports the conclusions of law that each party asserts the Court should reach. With each updated FOFCOL, the parties shall include a redline showing changes to the prior FOFCOL and hyperlinks to evidence cited in the FOFCOL. Seven days after the close of trial, the parties shall submit their final FOFCOLs.

- **Trial Logistics:**

- **Testimony:** Witnesses who testify live must testify in person. No witnesses will be allowed to appear remotely.
- **Overflow Courtroom:** An overflow courtroom will be made available with a video livestream of the trial proceedings.
- **Public Audio:** A publicly accessible audio-only livestream will be made available.

- **Next Pretrial Conference:** The next pretrial conference is scheduled for April 4, 2022, at 2 pm. The conference will take place in person. Before the conference, the parties shall file a joint statement not to exceed 10 pages by 12 pm on April 1, 2022. The statement shall address the following issues:

- **Objections to Testimony Presented by Declaration:** The parties shall propose a procedure for making objections to direct testimony presented through declarations.
- **Monitoring Trial Time:** The parties will be responsible for tracking time during trial and shall propose a procedure for time tracking.
- **Livestreaming:** The parties shall propose a procedure for lawyers representing parties in the case to access secure livestreams during trial.

IT IS SO ORDERED.

Dated: March 24, 2022

A handwritten signature in black ink, appearing to be 'C. R. Breyer', written over a horizontal line.

CHARLES R. BREYER
United States District Judge

United States District Court
Northern District of California

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